

§811.103

Owner. An owner as defined in the applicable Section 8 regulations.

Parent Entity PHA. Any state, county, municipality or other governmental entity or public body that is authorized to engage in or assist in the development or operation of low-income housing and that has the relationship to an agency or instrumentality PHA required by this subpart.

Servicing fees. The annual costs of servicing the obligations (including any debt service reserve), including trustee fees, mortgage servicing fees, PHA expenses in connection with annual reviews, maintenance of books and accounts, audit expenses, agent fees and other costs of servicing the obligations.

Trust indenture. A contract setting forth the rights and obligations of the issuer, bondholders, owner and trustee in connection with the tax-exempt obligations. The trust indenture may also include provisions regarding the loan to the owner or these may be set forth in a separate mortgage.

Trustee. The entity that has legal responsibility under the trust indenture for disposition of the proceeds of a bond issuance and servicing of the debt represented by the obligations. The trustee must be a bank or other financial institution that is legally qualified and experienced in performing fiduciary responsibilities with respect to the care and investment of funds of a magnitude comparable to those involved in the financing.

Yield. That percentage rate at which the present worth of all payments of principal and interest to be paid on the obligations is equal to the purchase price.

[44 FR 12360, Mar. 6, 1979, as amended at 61 FR 5212, Feb. 9, 1996; 61 FR 14460, Apr. 1, 1996]

§811.103 General.

(a) In order for obligations to be tax-exempt under this subpart the obligations must be issued by a PHA in connection with a low-income housing project approved by HUD under the Act and the applicable Section 8 regulations.

(1) Except as needed for a resident manager or similar requirement, all dwelling units in a low-income housing project that is to be financed with obli-

24 CFR Ch. VIII (4-1-04 Edition)

gations issued pursuant to this subpart must be Section 8 contract units.

(2) A low-income housing project that is to be financed with obligations issued pursuant to this subpart may include necessary appurtenances. Such appurtenances may include commercial space not to exceed 10% of the total net rentable area.

(b) Where the parent entity PHA is not the owner of the project, the parent entity PHA or other PHA approvable under §811.104 must agree to administer the contract pursuant to an ACC with HUD, and such a PHA must agree that in the event there is a default under the contract it will pursue all available remedies to achieve correction of the default, including operation and possession of the project, if called upon by HUD to do so. If the field office finds that the PHA does not have the capacity to perform these functions, the Assistant Secretary may approve alternative contractual arrangements for performing these functions.

§811.104 Approval of Public Housing Agencies (other than agency or instrumentality PHAS).

(a)(1) An application to the field office for approval as a Public Housing Agency, other than an agency or instrumentality PHA, for purposes of this subpart shall be supported by evidence satisfactory to HUD to establish that:

(i) The applicant is a PHA as defined in this subpart, and has the legal authority to meet the requirements of this subpart and applicable Section 8 regulations, as described in its application. This evidence shall be supported by the opinion of counsel for the applicant.

(ii) The applicant has or will have the administrative capability to carry out the responsibilities described in its application.

(2) The evidence shall include any facts or documents relevant to the determinations required by paragraph (a)(1) of this section, including identification of any pending application the applicant has submitted under the Act. In the absence of evidence indicating the applicant may not be qualified, the